

Office of Chief Counsel
Internal Revenue Service

memorandum

CC:LM:RFP:CHI:2:POSTF-166843-01
JPJankowski

date: December 12, 2001

to: Myron Braunstein, Team Manager
LMSB Group 1481 (LM:NR:Schaumburg)

from: Area Counsel
(Retailers, Food, Pharmaceuticals)

subject: [REDACTED]
Request for Legal Advice and Assistance

The purpose of this memorandum is to respond to your recent request for legal advice and assistance. Your question arises from a request you received from a tax shelter coordinator, regarding the possibility of your producing substantive materials you currently have in your possession. These same materials were secured or developed by you in the ongoing examination of the above-noted LMSB (CEP- Natural Resources) Large Case taxpayer. Specifically, we have been asked for our legal opinion as to whether you can produce relevant tax shelter documentation to Revenue Agent [REDACTED] and his Manager, [REDACTED] (LMSB Group [REDACTED], Territory [REDACTED], Financial Services), under all the facts and circumstances hereinafter further described.

The assistance provided by the undersigned is in accordance with the former Large Case Coordination Procedures, for all significant advice provided in non-docketed LMSB (CEP) large cases. **In accordance with the April 2, 2001 Office of Chief Counsel directive, regarding standardized disclosure statements, you are hereby advised that this memorandum should not be cited as precedent.**

This matter was informally coordinated by the undersigned with the National Office, specifically the Office of Assistant Chief Counsel, Disclosure and Privacy Law (CC:PA:DPL). On December 12, 2001, the undersigned requested informal assistance on the question presented by you. On the same date, Attorney Sarah E. Tate (CC:PA:DPL:B3) contacted the undersigned by phone and discussed the underlying facts and the nature of your request.

As you know, Service employees have legal access to tax information pursuant to IRC § 6103(h)(1), to the extent they have a need to know the tax information for legitimate tax administration purposes. Similarly, revenue agents may share tax return information with other revenue agents, to the extent that such other revenue agent needs the information to conduct tax administration functions, including identifying taxpayers for examination or such other legitimate tax administration purposes.


As you know, Messrs. [REDACTED] and [REDACTED] are seeking [REDACTED] tax return related materials (Payout amounts to the [REDACTED]; Proceeds projection schedules and documentation from the sale(s) of stock; and Balloon payment dates and amounts from the underlying leased equipment) for purposes of finalizing their tax shelter penalty investigation of another LMSB taxpayer. We understand that this other LMSB entity was the shelter promoter of a series of large scale lease-stripping promotions. Two of these same lease-stripping promotions involve your taxpayer. Messrs. [REDACTED] and [REDACTED] are under a considerable time constraint, in as much as their promoter has filed bankruptcy and the deadline for the Service to file a proof of claim is fast approaching. We believe the deadline date to be in early [REDACTED].

Since the nature of Messrs. [REDACTED] and [REDACTED] inquiry and request for information and documentation of your taxpayer is for a legitimate tax administration purpose, you may provide them with the requested information under the authority of IRC § 6103 (h)(1). Attorney Sarah E. Tate (CC:PA:DPL:B3) is in full agreement with this guidance and advice.

In accordance with the former Large Case (LMSB) coordination procedures with the National Office, this written legal advisory is being treated as a non-significant advice request (NSAR). We are submitting this advisory opinion for post review and anticipate a 10-day response from the National Office. As you know, the response can supplement, modify and/or reject the advice contained herein. **Accordingly, please take no action on the advice contained herein, until such National Office response is received by the undersigned. You will be promptly notified of any exceptions or modifications recommended to the advice contained herein.**

In the interim, should you have any questions regarding this memorandum or our advice, please contact the undersigned at (312) 886-9225, Extension 319.

STEVEN R. GUEST
Associate Area Counsel
(Large and Mid-Size Business)

By: 
JOHN P. JANKOWSKI
Special Litigation Assistant

cc:

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